

Docket No. RM2012-2

¹ See Docket No. ACR2011, Order No. 1095, Notice of Postal Service's Filing of Annual Compliance Report and Request for Public Comments (issued January 3, 2012), at 6-7.

Proposal Eighteen: Modifications to the Flats Cost Model.² The Commission initiated the proposed rulemaking in the instant docket on December 16, 2011, establishing December 30, 2011, and January 9, 2012, respectively, as the deadlines for initial comments and reply comments on the proposed changes in analytical principles.³

On December 29, 2011, one day before initial comments on Proposal Eighteen were due in the rulemaking proceeding, the Postal Service filed its Annual Compliance Report (ACR) for FY 2011, in which it implemented the Proposal Eighteen flats model.⁴ The Postal Service stated in the FY 2011 ACR that in cases where proposed changes in analytical principles were still under review by the Commission, it had followed its customary procedure and "generally prepared two versions of the materials, one incorporating the proposals and one not incorporating the proposals." FY 2011 ACR at 6. However, it also stated that Proposal Eighteen was one of three exceptions to this practice:

[W]ith respect to Proposal Eighteen, Docket No. RM2012-2, the completion of the deployment of the Flats Sequencing System (FSS) in FY 2011 necessitates cost estimations of FSS-processed mail, but the pre-Proposal Eighteen model does not estimate such costs. Therefore, USPS-FY11- 11, which is affected by Proposal Eighteen, provides one version of materials that incorporates the Proposal Eighteen modification

² Petition of the United States Postal Service Requesting Initiation of a Proceeding to Consider Proposed Changes in Analytical Principles (Proposals Sixteen through Twenty) (filed November 30, 2011).

³ Docket No. RM2012-2, Order No. 1053, Notice of Proposed Rulemaking on Analytical Principles Used in Periodic Reporting (Proposals Sixteen – Twenty) and Ruling Dismissing Motion as Moot (issued December 16, 2011).

⁴ United States Postal Service FY 2011 Annual Compliance Report (filed December 29, 2011), at 6.

relating to FSS processing costs but does not incorporate Proposal Eighteen's other three modifications, and an alternate version that incorporates all four Proposal Eighteen modifications.

FY 2011 ACR at 7.

In other words, even before the date had arrived for initial comments on Proposal Eighteen in the docket in which its adoption as an approved methodology was under review, the Postal Service had implemented the proposal, on a take-it-or-leave-it basis, in its Annual Compliance Report.

Time Inc. does not mean to question either the Postal Service's statement that "the completion of the deployment of the Flats Sequencing System (FSS) in FY 2011 necessitates cost estimations of FSS-processed mail" or its statement that "the pre-Proposal Eighteen model does not estimate such costs." Our point rather is that it does not follow from these facts that the unapproved and barely examined Proposal Eighteen model must be implemented in the ACR in an essentially unamended form.

Developments since filing of the FY 2011 ACR

In the period since the FY 2011 ACR was filed, Time Inc.'s postal consultant, Halstein Stralberg, has discovered what he believes to be major errors in all versions of the Proposal Eighteen model that cause misstatements of the piece-related costs of flats in, respectively, FSS scheme bundles, 5-digit bundles, and carrier route bundles. These errors have substantial effects on the size of the CRA adjustment and the estimated cost differences between presort levels. For example, Stralberg has discovered that by correcting one formulaic error, the estimated unit piece-handling cost of flats in FSS scheme bundles (shown in cell G15 on the summary

sheet of the "alternate" Periodicals model in USPS-FY11-11) increases from 9.36 to 16.35 cents per piece, or by 75%. The errors he has found would appear to affect any evaluation one might wish to make of the cost effectiveness of the FSS system.

Since the filing of the ACR, Stralberg has also identified other serious deficiencies in the Proposal Eighteen model. For example, the model shows that 99.7% of the flats that are fed into the FSS are finalized on the FSS. But MODS data show that only 89.4% were actually finalized to DPS on the FSS. The more than 10% that in fact are rejected but which the model treats as accepted are simply unaccounted for by the Postal Service after they are fed into the FSS. Most may have been sorted manually and then sequenced manually by carriers. If so, the actual costs of FSS would be higher than the model indicates. Some may literally have disappeared (i.e., have been destroyed by the machines).

Discussion

The Postal Service's Proposal Eighteen, first put forward in a petition for a rulemaking proceeding on November 29, 2011, constituted a request to the Commission to give its seal of approval to a new version of the Periodicals mail flow model. The question of whether to approve that request is essentially the same as the question of whether to accept the Postal Service's preemptive implementation of the Proposal Eighteen model in its ACR on December 29, 2011, before the date for initial comments in the rulemaking proceeding. The Commission cannot adequately assess the merits of the Proposal Eighteen model either in the context of the FY

2011 ACR or independent of that context, in the RM2012-2 rulemaking proceeding, without considering the issues described above.⁵

On the assumption that the Commission disposes of this motion favorably, it seems to make sense at this point, for the sake of economy and clarity of the record, to include further discussion of Proposal Eighteen within, and make it due on the same dates, as comments on the FY 2011 ACR. The most obvious reason for this is that comments bearing on Proposal Eighteen will inevitably have a bearing on its use in the ACR as well. Duplicative filings or confusion about which docket is the more appropriate one in which to file particular comments could be avoided by merging further comments on Proposal Eighteen with those on the ACR. Another reason is that it appears likely that the Commission will next address the relevant issues in its FY 2011 Annual Determination of Compliance. Another is that participants discussing issues related to Proposal Eighteen are likely to wish also to discuss related issues that fall within the scope of proper comment on the ACR but not on Proposal Eighteen itself.

⁵ Uncertainty about whether discussion in Docket No. ACR2011, after the period for comments in Docket RM2012-2 has closed, would be a proper basis for a decision in Docket No. RM2012-2, is the primary reason for filing the instant motion. When the Commission, on December 16, 2011, set December 30, 2011, as the deadline for comments on Proposals Sixteen through Twenty, Time Inc. ought to have recognized the insufficiency of the period allowed for comments and requested an enlargement. It asks to be excused for failing to do so, although it can offer no better excuse than culpable indolence. We have no doubt that the Commission's disposition of the motion will be based on the importance of taking account of the problems discovered by Stralberg before deciding whether to adopt Proposal Eighteen as a rule in Docket No. RM2012-2, which we think is sufficiently apparent not to require further argument.

There appears to be no reason to doubt that comments relating to Proposal Eighteen and the issues discussed in this motion are proper in Docket No. ACR2011, under the broad terms of the Commission's invitation of public comment in that docket. See Notice of Postal Service's Filing of Annual Compliance Report and Request for Public Comments (issued January 3, 2012), at 5.

Conclusion

Time Inc. therefore respectfully moves that the Commission allow further comments on Proposal Eighteen in Docket No. RM2012-2, to be due no later than February 3, 2012, and further reply comments, to be due no later than February 17, 2012 (the dates, respectively, on which comments and reply comments in Docket No. ACR2011 are due), and that the Commission indicate that such comments may be merged with comments in Docket No. ACR2011.

Time Inc. also wishes to indicate that it intends to file comments in Docket No. ACR2011 (and, if permitted, in Docket No. RM2012-2) on February 3, 2012, by Mr. Stralberg, demonstrating the major errors referred to above and how to correct them and otherwise addressing as fully as he is able to do at that date the deficiencies in Proposal Eighteen that are referred to in this motion.

Respectfully submitted,

s/
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